

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	:	
	:	
Federal-State Joint Board	:	CC Docket No. 96-45
on Universal Service	:	
	:	
Schools and Libraries Universal Service	:	CC Docket No. 02-6
Support Mechanism	:	

Petition for Waiver and Relief of E-rate Rules
on Behalf of Victims of Iowa Storms and Floods

The State of Iowa respectfully petitions the Federal Communications Commission (FCC or Commission) for waiver and relief of the E-rate program rules, due to the catastrophic storms and floods that were recently inflicted on the State. During late spring and summer, large portions of Iowa were severely impacted by storms and floods. The storms consisted of tornadoes and heavy rainfall that resulted in extensive flooding. In a visit to flood-damaged eastern Iowa on June 18, President Bush stated that he hadn't seen such bad floods since the Katrina Hurricane disaster of 2005 (*Cedar Rapids Gazette, June 20, 2008*, attached as Exhibit A to this Petition). These circumstances, as described more fully below, establish the special circumstances exist and that granting the requested waiver is in the public interest. 47 C.F.R. § 1.3.

Iowa experienced horrific damage during the spring/summer catastrophic weather:

- 18 Iowans lost their lives in these disasters.
- 86 of Iowa's 99 counties received a Governor's Disaster Declaration.
- 80 of Iowa's 99 counties received a Presidential Disaster Declaration.
- 45,000 sq. miles of the State flooded.
- Millions of acres of farmland flooded; estimates are ongoing.
- 1,300 city blocks in Cedar Rapids were flooded.
- 32,000 Iowa families have so far registered for disaster assistance.
- 40,000 Iowans have been displaced from their homes.
- 4,000 Iowa National Guard were called in response to the disaster.
- Over 50,000 Iowans have volunteered in the response, recovery and rebuilding of our state.
- Billions of dollars of damage occurred to businesses and agricultural land/crops, affecting the future property tax base, state income tax, and sales tax revenues for Iowa school districts.

Iowa's schools and libraries sustained catastrophic damage from the storms and flooding:

- 73 of Iowa's 364 school districts experienced damage from the recent natural disasters.
- Damage to districts is estimated to be around \$62 million
- The highest costs were for structural damage and damage from standing or running water.
- Six nonpublic schools reported damage at a preliminary estimated cost of \$1.7 million.
- Two area education agencies (school corporations) estimated a total damage amount of \$7.2 million.
- Damage to two libraries estimated at a total of \$5.4 million.
- Approximately 2,400 Iowa students will be displaced and unable to attend their home district this fall.

The towns and cities of Cedar Rapids, Iowa City, and New Hartford are among the most severely impacted by the devastating storms and floods. The total flood damage to these communities and the surrounding areas will total in the billions of dollars. Compounding the problems of rebuilding of these communities is the fact that many of the families and students least able to afford the cost of repair were the most severely impacted (media coverage attached as Exhibit B to this Petition). For example, Taylor Elementary School in Cedar Rapids sustained flood damage to such an extent that the building cannot reopen in the 2008-2009 school year. Many of the families in this neighborhood had their homes completely flooded and most of the displaced families have been temporarily re-located to FEMA trailers, apartments, or other housing. In the 2007-2008 school year, 192 of the 239 students (80.3%) of the children attending Taylor Elementary were eligible for free/reduced lunch. This information makes it evident that the Taylor Elementary surrounding community experienced severe financial challenges even before the spring and summer storms.

In addition to the damage to Cedar Rapids school attendance centers, the central office of the Cedar Rapids Community Schools district was flooded. Cedar Rapids is the second largest district in Iowa, enrolling 17,263 students. The central office was the hub of the telecommunications network for the district. Extensive damage to E-rate eligible equipment was sustained in the facility. The damage to the building required re-location of networking equipment, likely for several months or the entire school year. Three other Cedar Rapids district facilities were damaged.

The Cedar Rapids Public Library sustained similar flood damage. Everything on the first floor of the 85,000 square foot facility – which occupies a city block - was lost to the flood including the entire adult and youth collections, public access computers, computer labs, and a state of the art check-out system. Approximately 200,000 items in the collection were ruined by more than five feet of river water. Also, hundreds of pieces of electronic equipment, were lost. Damage to the building's major systems including its

electrical, local area network, plumbing, heating and air conditioning systems - as well as the facility's structural soundness -- is still being evaluated. A cost estimate is not yet complete due to the extensive destruction.

The storms that spread over North Central Iowa in early summer spawned a number of tornadoes. The city of Parkersburg, Iowa, was hit by a tornado that destroyed whole neighborhoods, including the high school. The district's school bus fleet was impacted with the majority of buses being damaged beyond immediate repair. The tornado also tore the roof off of the elementary school. The high school will need to be completely rebuilt and cannot be used during the 08-09 school year. High school students will need to attend school at the middle school facility in Aplington, a school five miles away. Families whose homes were destroyed in Parkersburg have been displaced to neighboring communities.

Schools and libraries are the hub of neighborhoods in every Iowa community. While it is obvious that the destruction of a school will impact where students attend classes this fall, it also hurts the entire neighborhood when a community center is lost. For example, the news media in Iowa continues to report the vocal community response to the loss of Taylor Elementary in Cedar Rapids and Aplington-Parkersburg High School. (Attached as Exhibit C is a news media report).

The estimated damage to E-rate eligible services and equipment is quantified at \$3 million.

Preliminary estimates, computed to the best of our knowledge at this time, indicate E-rate eligible damage of approximately \$3 million. While the \$3 million in E-rate eligible support is relatively small in comparison to the overall damage to Iowa schools and libraries, this assistance is vitally important to jumpstart replacement efforts of phone systems, local area and wide area networks. The State's other limited resources can then focus on rebuilding and replacing buses, books, school desks and all the other supplies necessary to operate schools and libraries.

Libraries with networks severely damaged or destroyed	School facilities with networks severely damaged or destroyed	School facilities that had moderate damage to networks
2	9	17

Request for Relief and Waiver of E-rate Rules:

The State of Iowa respectfully requests that the FCC waive its governing the E-rate program similar to the relief that was granted to Hurricane Katrina victims.

The financial support that this Petition seeks can be funded in FY 2008 from the \$600 million in rollover funds that the FCC has made available from prior years' unused funding.

Funding for this critical time (E-rate Funding Year 2008) of need should be provided by the rollover funds that are available to the Administrator. With the funding for this special period being provided by carryover funds, the remaining FY2008 applicants and FY2009 requests for priority 1 services and Internal Connections should not be affected.

Two previous orders by the FCC addressed special circumstances where hardship conditions necessitate consideration. The following was guidance issued by the Ysleta Order (adopted December 04, 2003), specifically Paragraph 67¹:

67. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.¹⁷⁷ In addition, the Commission may take into account considerations of hardship, equity, or effective implementation of overall policy on an individual basis.¹⁷⁸ In sum, a waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹⁷⁹

We also note the Katrina Order (adopted October 14, 2005), specifically in paragraph 38²:

38. Specifically, we (1) re-open the Funding Year 2005 filing window for schools and libraries, and consortia of schools and libraries, that were directly or indirectly affected by Hurricane Katrina; (2) treat all schools and libraries directly affected by Hurricane Katrina at the highest level of priority for Priority Two services (i.e., 90 percent) for Funding Years 2005 and 2006; allow affected parties in eligible counties/parishes in Alabama, Louisiana, and Mississippi to "restart the clock" for the purposes of calculating compliance with the "two-in-five" rule; (4) allow program participants in affected areas to substitute services or products in one broad category for another; and (5) allow schools and libraries serving displaced students and citizens to amend their Funding Year 2005 applications to account for the unexpected increase in population by filing a special supplementary FCC Form 471 request for additional funding.

We request the FCC to direct the Administrator to re-open the Funding Year 2008 filing window for all of the applicants" (Para 74, Ysleta, and Para 38, Katrina) affected by the storms and floods. This would allow those affected schools and libraries the opportunity to rebuild and replace their communications services and networks such as Local Area Networks and Wide Area Networks.

¹ http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-03-313A1.pdf

² http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-178A1.pdf

There are three categories in which the affected Iowa schools and libraries may find themselves:

- 1) Damage to structures, but after repair, schools and libraries will be able to re-open for the 2008-2009 school year.
- 2) Schools or libraries sustained so much damage that they must relocate to a temporary location, until structures are repaired or rebuilt.
- 3) Total destruction to structures which will have to be repaired or rebuilt.

For categories 1 and 2, we seek assistance for E-rate FY 2008 (July 1, 2008 through June 30, 2009). For those schools and libraries in category 3, we seek assistance for E-rate FY 2008 and FY 2009 (July 1, 2009 through June 30, 2010). These buildings need a longer lead time for their reconstruction efforts.

All affected entities, regardless of current discounts, and regardless of previous FY 2008 471 filings, should be allowed to submit a FY Form 2008 471 seeking a 90% discount on E-Rate eligible services, covering the period of July 1, 2008 through June 30, 2009.

Iowa's Governor Chester E. Culver has established a Rebuild Iowa Office as coordinator and clearinghouse for storm recovery efforts. The Iowa Department of Education E-rate coordinator and the State Library E-rate coordinator, acting under the guidance of the state's Rebuild Iowa Office and the FCC, and on behalf of the affected entities, will coordinate the application process to limit the potential for Waste, Fraud, and Abuse within this special period. A similar process was implemented as part of the Katrina E-rate relief effort, and worked successfully.

The State of Iowa requests the FCC to direct the following actions:

1. Immediately open a special filing window for funding year 2008 similar to that allowed by the Ysleta decision and established in the Katrina Order.
2. Allow affected eligible entities to receive E-Rate eligible products and services at a 90% discount for reconstruction and/or temporary services only. Reconstruction is limited to E-rate FY 2008 and 2009.
3. Waiver of technology plan approval requirement for services requested during the Katrina window.
4. Extensions of form deadlines for all affected entities.
5. Waiver of "2 out of 5" rules for affected entities.
6. Waiver of rules governing transfer of equipment.
7. Waiver of certifications where necessary.

8. Waiver of recordkeeping rules for damaged or missing documents.
9. Allowing Block 4, form 471, to follow the guidelines of new construction.
10. Flexibility in determining the contract end date for services requested in the special flood window.
11. Waiver of LOA requirement for filing a state Consortium Form 470.
12. Waiver of Form 470 28-day rule.
13. Waiver of the service start date to allow entities to purchase items prior to July 1.
14. Waiver of the Item 25 certification on Form 471.

A recommended process for implementation of requests includes:

1. Disaster Victims Special E-rate Filing Window for E-rate FY 2008:

The Iowa Department of Education and State Library E-Rate Coordinators will identify and certify affected entities eligible to file in the Disaster Window.

A special Form 471 60-day filing window for affected entities will be opened.

Affected applicants will be allowed to apply for E-Rate eligible products and services required to restore the network infrastructures and/or establish temporary services.

Form 471s will be processed as a first priority and FCDLs will be issued upon immediate completion of the review.

2. Additional Certifications

Affected applicants will certify to the following:

- A. I certify that the services and products on this application will be solely used to restore the network to the same pre-disaster degree of functionality (prior to floods/tornadoes of 2008).
- B. I certify that any duplicate funding (i.e. insurance, FEMA, community resources) in excess of 90% of the cost for products or services requested on this application will be returned to the Universal Service Fund.

Conclusion

The State of Iowa respectfully requests the FCC to grant relief to the storm and flood ravaged victims of our State by waiving the E-rate program rules consistent with this Petition for Relief and Waiver.

Respectfully submitted,



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Dated: August 21, 2008

Exhibit A

Gazette, The (Cedar Rapids-Iowa City)

Gazette, The (Cedar Rapids-Iowa City, IA)

June 20, 2008

Series: THE FLOODS OF 2008

'We're going to help you'

President stunned by massive flooding

Author: James Q. Lynch; The Gazette

Edition: F

Page: 1A

Estimated printed pages: 3

Article Text:

CEDAR RAPIDS -- President Bush was taken aback by the enormousness of flood damage he saw in Linn and Johnson counties during an aerial tour of the Corridor on Wednesday, one of his congressional escorts said.

"I think it was shocking to him, to say the least," said U.S. Rep. Dave Loebsack, a Mount Vernon Democrat who served as the president's guide during the helicopter flight from Cedar Rapids to Iowa City.

Standing at the edge of floodwater on Normandy Drive in Iowa City, Bush acknowledged "these are tough times for Iowa City and Cedar Rapids" and the surrounding area but announced no new aid or assistance during his 3 1/2-hour visit that may well be his last as president.

The news, according to Bush and Democratic Sen. Tom Harkin, who also accompanied him, is a \$2.65 billion emergency funding bill making its way through Congress. Bush thanked Congress for the aid, some of which will flow to Iowa.

Congress, he said, "is about to pass a big chunk of disaster money, which will help put people's mind at ease. We're going to help you recover."

While Bush took in an eyeful of flood damage, Harkin worked his phone to broker a deal with House Democrats and Republicans and White House budget director Jim Nussle, a former U.S. representative from northeast Iowa. They agreed to channel \$300 million into Community Development Block Grants and \$100 million into Economic Development Administration grants.

The grants, which don't have to be repaid, will be vital to meeting the state's recovery needs, Harkin said.

Harkin, Loebsack and Gov. Chet Culver used the trip to lobby Bush to waive the requirement that state and local governments put up 25 percent of the disaster recovery money.

Bush didn't make a final decision, Culver said as he saw the president off from The Eastern Iowa Airport.

"We both talked to him about it, but there's no commitment yet," Harkin said. "I think he needs to be briefed up on it."

"This trip, hopefully, will factor into his decision," Culver said.

At the Linn County Emergency Operations Center on the Kirkwood Community College campus

in Cedar Rapids, Bush said his job and that of the federal officials he brought with him is to "come down here just to listen to what you got on your mind ... and then plan for recovery." The need isn't limited to the cities, he said.

"A lot of farmers and cattlemen are hurting along with the city people," he said. Culver and Harkin "made clear that we need to worry about the little towns, too."

It wasn't just the damage that impressed Bush, Nussle said.

"We saw resiliency and a can-do spirit," Nussle said. "That shouldn't surprise me -- I'm an Iowan, too -- but I think the president was surprised by the positive attitude."

It was the worst flooding Bush has seen since Hurricane Katrina, Culver said Homeland Defense Secretary Michael Chertoff told him.

"I think that's one reason the president came today ... to understand the magnitude of the devastation," Culver said. "We're talking about tens of billions of dollars and they want to help. ... Ultimately, they need to be at the table when we completely rebuild and make this an even better state in the future."

Toward that end, Culver asked Barry Griswell of Principal Financial Group and Fred Hubbell of Iowa Companies to form a statewide private fundraising effort for Iowans affected by floods and tornadoes, and to help coordinate community efforts developing across the state.

After visiting Cedar Rapids, a levee built by Iowa City businesses to protect their property from the Iowa River, the flooded Normandy Drive neighborhood and the Red Cross shelter at the Johnson County Fairgrounds, Bush expressed belief that "you'll come back better."

"Sometimes you get dealt a hand you didn't expect to have to play," Bush said. "It's not a question whether you're going to play it. The question is how you're going to play it."

"I'm confident the people of Iowa will play it well."

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Caption:

PHOTOS Liz Martin photos/The Gazette

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Record Number: 3910805

Exhibit B

The Gazette 08/13/2008, Page B01

Minorities, poor hit hard by flood THE FLOODS OF 2008

Group asks officials to keep low-income residents in mind

By Rick Smith

The Gazette

CEDAR RAPIDS — The population hit by the June floods was vastly poorer, more likely to be minorities and renters, and occupied property worth less than three-fourths of the city's median home value when

compared with other Cedar Rapids residents, a study released Tuesday found.

The non-profit Iowa Fiscal Partnership called on state and local leaders to remember the needs of their low-income residents when planning for rebuilding and recovery.

“We find that the low income are not appearing in what we hear talked about on policy,” said David Osterberg, the think tank’s executive director.

In 2006, the Federal Reserve Bank of Minneapolis found that recovery after the 1997 Grand Forks, N.D., fire and flood “was more problematic” for low-income residents.

Cedar Rapids officials have said building new, affordable housing is a top flood-recovery priority and that a housing proposal would be unveiled in the weeks ahead.

The public policy group, a joint venture of the Iowa Public Policy Project in Iowa City and the Child & Family Policy Center in Des Moines, concluded:

Poverty rates in the flooded areas were more than double those in the county as a whole.

One in seven children in

► **STUDY, PAGE 6B**

Study/ Estimate finds fewer victims

► **FROM PAGE 1B**

the flooded areas lived in poverty.

12.4 percent of residents in the areas were minorities in a county with only 6.9 percent and in a state with just 7.4 percent of residents who are minorities.

The residents’ median income was 77 percent of the median income of Cedar Rapids and 74 percent of that in Linn County.

The median home value in the flood areas was 72 percent of the value in all of Cedar Rapids and 69 percent of Linn County’s median home value.

In addition, more residents in the flood area were renters than elsewhere in the city and county, and their

rent payments were less than rents at other apartments in the city and county where they may now have to move.

The Iowa Fiscal Partnership estimated that fewer people were flood victims than earlier figures had indicated. Early news reports said 25,000 people in Cedar Rapids were evacuated by flooding. But the policy group puts the number of “actual flood victims” at about 12,180 residents, based on data from the 2000 U.S. Census. That does not include the city’s downtown businesses and commercial areas.

Of that number, 3,020 were children, two-thirds of whom were school-aged, the group reported.

The Iowa Fiscal Partnership called on policymakers to adopt flood recovery policies that are timely, targeted and transitional or temporary in nature.

Victor Elias, a senior associate at the Iowa Child & Family Policy Center, said Tuesday it was still unclear where many of the lower-income residents displaced by flooding were living now. He said low-income residents displaced in Grand Forks went to live with family and friends for a short time and then moved to rural areas where housing was cheaper or left the area altogether.

Elias said mobile homes provided by the Federal Emergency Management Agency can help in the short term as long as the availability of FEMA temporary homes doesn’t slow the work of building new, permanent affordable housing to replace what has been lost.

Elias and Osterberg said communities like Cedar Rapids need to keep as many of their residents as possible in a state economy in which 20 percent of the jobs pay \$9 or less an hour. Some of these jobs are in child care, home health care, food service and retail work, jobs that are vital to a local economy and aren’t shipped overseas, they said.

They said a community should not want to see those employees leave. Many of them end up moving into better jobs in the local job market, while the community school district is educating their children to one day fill jobs or careers in a state worried about having enough employees in the future, Elias said.

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Exhibit C

Thursday, August 21, 2008 12:04 PM CDT

A-P students, teachers finding their way as new school begins



BY KAREN HEINSELMAN, COURIER STAFF WRITER

PARKERSBURG --- The sound of children competed with the noise of construction at the elementary. Boys and girls let loose happy shrieks and squeals Wednesday as they scrambled on playground equipment and chased classmates

Most ignored the vacant space to the east where the high school used to be and an abundance of housing projects to the south. They also didn't pay much attention to construction workers fixing the school's roof.

Moms and dads focused on memories in the making, snapping pictures and watching backpacks disappear into the building.

A fairly normal first day-of-school moment.

For some students, the what's different part --- scenery, faces and class assignments --- contributed an extra dose of anxiety to typical back-to-school uncertainty.

"The kids are a little anxious not knowing where to line up," said Crystal Birch, a parent from Parkersburg.

Familiar faces proved good medicine.

"Once they saw their friends, they were OK," Birch said.

For the next year, about 140 Aplington elementary students will go to school with Parkersburg kids. On Wednesday, about 430 students attended what was temporarily christened Aplington-Parkersburg Elementary.

Administrators with the Aplington-Parkersburg School District shuffled building assignments after an EF5 tornado in May took out the high school in Parkersburg. About 240 high school students will attend classes in the elementary in Aplington. The adjoining middle school, as in past years, will continue to serve students from both towns.

Despite efforts to prepare for the changes, administrators predict most everyone will go through an adjustment period. Those running the show in Aplington and Parkersburg feel the pressure of a multifaceted challenge --- effectively managing an influx of students around ongoing construction projects, not to mention additional bus routes and parking issues.

"Today and the rest of this week is just figuring out if these plans are going to work," High School Principal Dave Meyer said.

Administrators expect glitches, chaos and frustration. They also expect to survive.

A T-shirt for sale in the district, worn by some faculty Wednesday, communicates the rallying cry: Upward! Onward! Forward! The shirt also expresses hope that in "just one year" the classroom portion of the new high school will be finished and most of the academic headaches will be over.

In the meantime, classes and extracurricular activities will be business as usual, according to administrators.

"We are trying to keep it as normal as possible," Meyer said.

Logistical challenges

Wednesday presented first-day-back hassles and tasks as well as tornado-specific frustrations. Some students got lost. Others misplaced backpacks. Just 10 minutes after the tardy bell, the hallways at Aplington-Parkersburg Elementary were remarkably empty, Principal Amy May noted.

"When it's 8:30 a.m. and it's quiet in the hallway on the first day, that's a good thing," she said.

May kicked off the morning with back-to-back assemblies. She relayed advice about safety, respect and learning new things to recent changes at the school. She also offered assurance.

"There may be some new faces you don't know and you'll get to know them," May said.

As a Parkersburg resident, third-grader Kelsie Tingle is familiar with the building. But to some extent, the changes created somewhat of a new-school feel.

Administrators intentionally integrated Aplington and Parkersburg students, and Tingle was relieved to recognize a couple of girls from her soccer team.

"I was really nervous because I didn't know if the Aplington kids would be nice," Tingle said.

"They seem to be nice," she added.

In Parkersburg, preschool teachers wondered how to fit their collection of toys, books and materials into their new space in a portable classroom unit. Preschool starts next week.

After the tornado went through the area, volunteers boxed the items, teacher Beth Andersen said. Her portable unit only recently became available for occupants.

"I'm just finally getting through my stuff," Andersen said.

Flexibility may well be the word of the day, or perhaps year, guidance counselor Karah Spahn said. Since some cramped quarters and chaotic scheduling seems unavoidable for the moment, the prevailing attitude is to treat the situation like one big adventure, she said.

"We try to make the best of it," Spahn said.

After a busy and unusual summer, Andersen thinks teachers and students are glad to be back in a routine. Some students were affected directly, displaced from their homes by the storm. Others, like sophomore Michael Eastman, helped friends and neighbors clean up.

School is a good change of pace, Eastman said, even if some of the tables seem a bit small.

"It's really different," he said. "I feel like I'm back in elementary school."

Eastman's woodworking class in Aplington had little to do Wednesday. Many of the program's tools were damaged by the tornado or subsequent rain, instructor Brian Surratt said. Surratt plans to bring items from home to supplement available equipment.

"We are going to start working on something tomorrow," Surratt said. "... Hopefully the wood comes."

Making work benches and storage units to furnish the room may be a good place to start, he said. His classroom used to be a shop class but was most recently used as a fitness room, he added.

Keeping frustration at bay is difficult, Surratt said. He lost curriculum and other materials in the tornado. His troubles Wednesday were just some of a number of loose ends.

"There are a million things that have to get done around here," Surratt said.

In Aplington, physical education classes, athletic practices and games and lunch will likely create the most challenges logistically, Meyer said. A new gymnasium in Aplington, which Meyer hopes will be available by mid-October, should alleviate some of the congestion.

To accommodate high school students who drive to school, the city of Aplington turned part of a street near the building into a one-way road and added diagonal parking, Meyer said. Pre-engineering, business and computer assisted drafting classes will take place in portable units, he added.

The transition is easier because the Aplington building used to be a high school, Meyer added. And despite changes in environment, administrators managed to maintain course offerings, he said.

High school students are taking the changes in stride, said Mark Haren, a business education teacher and football coach. He attributes their flexibility to maturity.

"They know it's going to be nutso," Haren said.

Upperclassmen may understand, but some at least wish they were back in their own school. Senior Molly Eastman, 17, of rural Aplington, took the loss of the high school hard.

"I was really hoping to graduate from there," she said. "It's kind of devastating in a way."

Mycala Mett, 15, a sophomore from Parkersburg, regrets the storm but notes one positive. Future classes will enjoy a new facility.

Principal Meyer understands the displacement is tough, especially for seniors. He also expects they will grow and learn and can handle the adversity.

"If there's a group that's meant to be in this position, it's this class," he said.

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